

**MINUTES OF THE MEETING OF THE
UNIFORM COMMERCIAL CODE COMMITTEE
OF THE BUSINESS LAW SECTION
OF THE STATE BAR OF CALIFORNIA**

**Friday, May 9, 2008
Oakland Hilton**

The May 9, 2008 meeting of the Uniform Commercial Code Committee (the "Committee") was called to order at approximately 10:00 a.m., with Janice Kosel presiding.

A. ADMINISTRATIVE MATTERS

1. **Appointment of Secretary.** Zach Finley agreed to serve as Secretary of the meeting.
2. **Roll Call/Attendance.** Please refer to the attendance sheet attached at the end of the minutes.
3. **Consideration/Approval of April 22, 2008 Meeting Minutes.** The minutes of the April 22, 2008 meeting were approved with minor corrections.
4. **Future Meeting Dates and Sites.**
 - a. The next two Committee meetings are scheduled to be held at 10:00 a.m. in the San Francisco and Los Angeles offices of Morrison & Foerster LLP on the following dates:
 - (1) Thursday, June 5, 2008
 - (2) Tuesday, August 12, 2008
 - b. In addition, the Committee will meet in person on Friday, September 26, 2008 from 1:00 to 3:00 p.m. during the annual State Bar meeting in Monterey and will join the Insolvency Committee and other committees of the Business Law Section for a cocktail reception from 4:00 to 6:00 p.m.
5. **Subcommittee Membership.** Jan Kosel referred the Committee members to the roster and encouraged the members to consider whether there are any subcommittees in which they are interested in participating.

B. MAIN AGENDA ITEMS

1. **Revised Insolvency Committee Proposal on CCP 697.530.** Jan Kosel recapped the previous discussion of the most recent version of this proposal and Insolvency Law Committee member Ellen Friedman's comments on the same. Jan also asked two substantive questions regarding judgment liens, and a discussion of the same ensued. Jan commended the quality of the Insolvency Committee's proposal, and Jay Bingham (Insolvency Committee

Liaison) expressed the Insolvency Committee's appreciation of the Committee's feedback on the proposal and participation in its development. After a motion duly made and seconded, the Committee unanimously approved the proposal. Mark Porter (Executive Committee Liaison) requested that the minutes recognize the contributions of Hill "Buzz" Blackett of Friedman Dumas & Springwater LLP to the preparation of the proposal and the accompanying report.

2. New Members and Officers. Jan Kosel reviewed the status of the Committee's three interim members, all of whom have reapplied or are in the process of reapplying for subsequent terms. The Committee also discussed the nine pending applications from potential new members for terms commencing in the Fall and unanimously approved all nine applications. Subject to Executive Committee approval, the nine newly-approved members are:

Anne Bongi of SVB Financial Group
Robert Diaz of Hodel Briggs Winter LLP
Brenda Dieck of O'Melveny & Myers LLP
Jeffrey Kayes of Latham & Watkins LLP
Walter Oetzell of Danning, Gill, Diamond & Kollitz, LLP
Russell D. Pollock of Greene Radovsky Maloney Share & Hennigh LLP
Stephen Sepinuck of Gonzaga Law School
Brian Stern of Pillsbury Winthrop Shaw Pittman LLP
William Veatch of Morrison & Foerster LLP

The Committee authorized the Co-Chairs to allocate the newly-approved members to the currently-vacant Committee positions (which have various term lengths), with the understanding that the information regarding the new members and their respective appointments would be distributed to the Executive Committee prior to the Executive Committee's June 6 meeting. Jan also announced the new Co-Chairs and Co-Vice Chairs for the Committee term commencing in the Fall:

- a. Co-Chairs: Edith Warkentine and Patrick Costello
- b. Co-Vice Chairs: Michael DuQuesnay and Zach Finley

3. Hidden Liens Project. Kevin Cops reported that the first version of the Hidden Liens Report is ready for posting to the Committee's website. Kevin added that the Hidden Liens Subcommittee had decided against dating the individual sections of the report that had already been completed but that, going forward, individual sections would be dated as completed. Kevin noted that 10 additional individual sections of the report have been prepared and are awaiting final audit, and that the Subcommittee expects to have 15-20 additional sections completed and ready for posting to the Committee's website in the next 4-6 weeks. Wansun Song suggested making the report subject to an eBlast once it has been posted to the Committee's website, and Mark Porter said he would work on getting the eBlast to the entire Business Law Section. Jan Kosel commended the Subcommittee for their work and on the completion of a project that has been a long time in the making.

4. **Article 9 Amendments Subcommittee.** Edith Warkentine reported that the memorandum addressing changes to Article 9 proposed by the International Association of Commercial Administrators (the “IACA Memorandum”) and the memorandum addressing legislation enacted or pending in Texas, Nebraska and Tennessee to amend provisions of Article 9 relating to individual debtor names (the “Debtor Names Memorandum” and, together with the IACA Memorandum, collectively, the “Article 9 Amendments Memoranda”) have been finalized and will be posted to the Committee’s website soon. Barry Dubin reported that he had learned from one of his contacts that legislation is pending in Tennessee that would further amend Tennessee’s Article 9 provisions relating to individual debtor names to align them with the approach taken by Texas in its recently-amended provisions. Edith asked Barry for the name of the Tennessee contact so she could discuss Tennessee’s proposed legislation with him. Patrick Costello asked if the Article 9 Amendments Memoranda had been sent to the ABA’s joint task force on Filing Office Operations and Search Logic (the “FOOSL Task Force”). Wansun Song noted that the IACA Memorandum had been sent to IACA, and that Harry Sigman had distributed the IACA Memorandum to the PEB. Patrick expressed his view that the Article 9 Amendments Memoranda should be distributed to the FOOSL Task Force, and the Committee Co-Chairs authorized him to distribute the Article 9 Amendments Memoranda to the FOOSL Task Force. Wansun Song and the rest of the Committee commended the Article 9 Amendments Subcommittee, and in particular Edith Warkentine and Vasco Morais, for their excellent work on the Article 9 Amendments Memoranda.

C. SUBCOMMITTEE AND OTHER REPORTS

1. **Publications and Programs Subcommittee.** Jan Kosel noted that June 2 is the deadline for submitting a roster of speakers at the State Bar’s annual meeting in September, and that, in light of the recently-completed first edition of the Hidden Liens Report, she had proposed the idea of having the Committee do a panel presentation on hidden liens. Kevin Cops agreed to raise the proposal with the Hidden Liens Subcommittee. Jan, Kevin and Barry Dubin discussed some ideas regarding format for a presentation on hidden liens. Jane Springwater agreed to be one of the speakers on the panel, and Jan suggested inviting a member from the Agribusiness Committee to participate in the panel. Wansun Song announced that he and Kevin Cops are planning an upcoming presentation on unusual collateral types and perfection methods with respect to the same and that they needed one additional speaker to participate in the presentation.

2. **Deposit Account Control Agreements Subcommittee.** Karl Christiansen reported that the Subcommittee will be reviewing the model form of Deposit Account Control Agreement for Securitization Transactions that is being drafted by the ABA’s task force on Deposit Account Control Agreements (which form is based upon the model form of Deposit Account Control Agreement previously completed by the ABA task force). Karl asked if there is a member of the Committee with securitization expertise that could assist the Subcommittee with this project. Kevin Cops suggested that Bill Veatch—one of the newly-approved Committee members (subject to Executive Committee approval)—might be able to assist the Subcommittee, and Karl was authorized by the Committee Co-Chairs to contact Mr. Veatch for this purpose. Karl also noted that the ABA task force has drafted a report describing the various inserts (i.e., optional provisions) to the model form of Deposit Account Control Agreement, and that the Subcommittee would be reviewing the report as well as the inserts.

Finally, Karl reported that the ABA task force would be working on an insert relating to health care insurance receivables and that the Subcommittee intends to review that insert when it becomes available. Jan Kosel suggested that the Subcommittee solicit feedback from the Health Law Committee when the Subcommittee reviews that particular insert.

3. **Essay Contest Subcommittee.** Jan Kosel reported that the Subcommittee will advertise the essay contest for California law school students at the beginning of the 2008-09 academic year. She thanked Sandra Lee Montgomery for spearheading the effort and Edith Warkentine for working on the distribution list to be used for announcing the essay contest.

4. **Partnership Guide Subcommittee.** John Oehmke reported that the Subcommittee intends to circulate to the Committee by the June meeting a detailed outline of a chapter on Article 9 issues with respect to limited partnership interests that the Subcommittee will be preparing for inclusion in the Partnership and Limited Liability Company Committee's forthcoming guide on limited partnerships. A draft of the Subcommittee's outline is due to the Partnership and Limited Liability Company Committee in August. Mark Porter asked John about the progress of the project generally and John noted that it seems to be progressing well.

5. **Legislative and Case Law Tracking Subcommittee.** Edith Warkentine reported that the Subcommittee is monitoring new federal tax legislation to determine whether a proposal on creating a register for federal tax liens ever resurfaces.

6. **Website Development and E-Communications Subcommittee.** There was no report.

7. **ALI Proposal to Amend Choice-of-Law in Article 1.** The Committee is monitoring the status of this proposal

D. LIAISON UPDATES

1. **Status Report from Executive Committee.** Mark Porter congratulated the newly-appointed members and officers of the Committee for the upcoming term. No other major news to report.

2. **Status Reports from Other Committees.**

a. **Insolvency Committee.** Jay Bingham, Insolvency Committee Liaison, reflected on the essay contest previously sponsored by the Insolvency Committee and noted some ways in which the contest could be improved upon next time. Jay also described the Insolvency Committee's existing projects: participating in the Partnership and Limited Liability Company Committee's guide on limited partnerships, working with the Committee to organize the cocktail reception at the State Bar annual meeting in September, reviewing and commenting on the California Law Revision Commission's proposed changes to the mechanic's lien statutes, assembling panels to present at the State Bar annual meeting, and submitting an Affirmative Legislative Proposal to correct erroneous cross-references in California statutes to the federal Bankruptcy Code (the ALP is currently awaiting final approval from the Executive Committee). Jay also responded to a few questions from Wansun Song regarding the Insolvency Committee's essay contest.

- b. Corporations Committee. There was no report.

E. OTHER ITEMS

1. **Future Meeting Dates.** Jan Kosel revisited the topic of future meeting dates and, noting the open items of business that would require the Committee's involvement over the next couple of months (specifically, consideration of new sections of the Hidden Liens Report and review of the Partnership Guide Subcommittee's draft outline for the limited partnership guide), she recommended convening a meeting in August (in addition to the meeting scheduled for June). The Committee members agreed to convene a meeting on August 12, 2008.

2. **Future Projects.** Patrick Costello encouraged the Committee members to begin thinking about new projects for the Committee to undertake during the new term commencing in the Fall.

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The meeting concluded at approximately 11:00 a.m.

Meeting Attendance

Attendees	January 8	February 12	March 11	April 22	May 9
Janice E. Kosel	Present	Present	Present	Present	Present
Wansun Song	Present	Present	Present	Present	Present
Edith R. Warkentine	Present	Present	Present	Present	Present
Patrick Costello	Present	Present	Absent	Present	Present
Harry C. Sigman	Present	Present	Present	Present	Absent
Peter Burke	Present	Absent	Present	Present	Present
Karl H. Christiansen	Present	Present	Absent	Present	Present
Kevin Cops	Absent	Present	Present	Present	Present
Michael DuQuesnay	Present	Present	Absent	Present	Present
Zachary S. Finley	Present	Absent	Present	Present	Present
Elliot Hinds	Absent	Absent	Absent	Absent	Absent
George Kalikman	Absent	Present	Absent	Absent	Absent
Ken Miller	Present	Present	Present	Present	Absent
Sandra Lee Montgomery	Absent	Absent	Present	Present	Absent
Vasco H. Morais	Present	Present	Present	Present	Absent
Theotis F. Oliphant	Absent	Present	Absent	Absent	Absent
John Oehmke	Present	Absent	Present	Present	Present
Jane K. Springwater	Present	Present	Present	Present	Present
Robert A. Trodella, Jr.	Absent	Absent	Absent	Absent	Absent
Mark Porter (Ex Com Liaison)	Absent	Present	Present	Present	Present
Barry Dubin	Present	Absent	Absent	Present	Present
Jay Bingham (Insolvency)	Present	Absent	Present	Absent	Present
Jim Cochran (Ex Com)	----	Present	Present	Absent	Absent
Chuck Ortmeier (Corp.)	----	Present	Present	Present	Absent